



EB-2011-0268

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (Schedule B);

AND IN THE MATTER OF an application by Hydro One Networks Inc. for an order or orders approving a transmission revenue requirement and rates and other charges for the transmission of electricity for 2011 and 2012.

AND IN THE MATTER OF a Motion by Hydro One Networks Inc. pursuant to the Ontario Energy Board's *Rules of Practice and Procedure* for a review by the Board of its Decision with Reasons EB-2010-0002 dated December 23, 2010.

BEFORE: Cynthia Chaplin
Presiding Member

Paul Sommerville
Member

Marika Hare
Member

DECISION, NOTICE OF HEARING AND PROCEDURAL ORDER NO. 1

On December 23, 2010, the Ontario Energy Board (the "Board") issued its EB-2010-0002 Decision with Reasons (the "Decision") determining the 2011 and 2012 Transmission revenue requirement for Hydro One Networks Inc. ("Hydro One"), and by subsequent rate order dated January 18, 2011, set the Ontario Uniform Transmission

Rates, effective January 1, 2011. The Hydro One Transmission Revenue Requirement for 2012 and the 2012 Uniform Transmission Rates will be established after the Board issues its revised Cost of Capital parameter update in the fall of 2011.

On July 15, 2011, Hydro One filed a letter and a Notice of Motion with the Board seeking to vary the Decision. The Motion was copied to all intervenors in the EB-2010-0002 proceeding. In that Motion, and by letter dated August 11, 2011, Hydro One informed the Board that it had sought, and on July 21, 2011 received, approval from the Ontario Securities Commission ("OSC") to utilize United States Generally Accepted Accounting Principles ("US GAAP") as the basis for preparing its financial statements for public securities filings beginning in January 1, 2012 and terminating January 1, 2015.

The Motion sought to vary the Board Decision to permit Hydro One to use US GAAP for rate application filings, regulatory accounting and regulatory reporting, and to adjust the 2012 revenue requirement set and the variance accounts approved in the Decision, to reflect the adoption of US GAAP rather than International Financial Reporting Standards ("IFRS") for regulatory purposes. Hydro One had previously informed the Board, by way of letter dated May 31, 2011, that it was evaluating the option of adopting US GAAP in lieu of IFRS for 2012.

The Motion included the following requests:

1. An order varying the Decision and allowing Hydro One to utilize US GAAP as its approved framework for rate setting, regulatory accounting and regulatory reporting commencing January 1, 2012, in a manner appropriate for a rate regulated entity including the following resulting adjustments to 2012 levels:
 - a. A reduction in Hydro One's 2012 approved revenue requirement from \$1,657.6 million to \$1,426.3 million;
 - b. An increase in Hydro One's 2012 capital expenditures from \$781.3 million to \$981.3 million;
 - c. An increase in Hydro One's 2012 rate base from \$8,726.3 million to \$8,774.4 million;

2. An order requiring Hydro One to file a draft 2012 rate order for review and approval which includes all impacts of adopting US GAAP in place of modified IFRS, subject to any changes required by the Board's subsequent issuance of the approved cost of capital parameters effective January 1, 2012; and
3. An order requiring establishment of necessary US GAAP variance accounts in place of or in addition to the IFRS variance accounts.

The issues raised by Hydro One in the Motion will be considered by the Board. However, the Board finds that there are no "new facts that have arisen" or a "change in circumstances" within the meaning of Rule 44 of the Board's *Rules of Practice and Procedure* that raise a question as to the correctness of the Decision. The new facts referred to in the Motion consist of the choice made by Hydro One to apply to the OSC for approval to use US GAAP for external financial reporting and securities filings, and the receipt of the decision from the OSC granting that approval.

The Board finds that a change in strategy by an applicant, such as a choice by a utility to seek permission to use an alternate financial reporting standard, does not constitute a new fact that has arisen or a change in circumstances sufficient to serve as a ground for review under Rule 44. The Board therefore determines, under Rule 45 of the Rules of Practice and Procedure, that the matter ought not to be reviewed.

However, the Board will, on its own motion, commence a hearing under section 78 of the *Ontario Energy Board Act, 1998* to consider adjustments to Hydro One's 2012 Transmission revenue requirement and other adjustments and variance accounts that may be necessary should Hydro One use US GAAP rather than modified IFRS for regulatory purposes. The Board will restrict its consideration of the 2012 Transmission revenue requirement and transmission rates to adjustments consequent on the adoption of US GAAP by Hydro One.

The Board grants intervenor status in this proceeding to all intervenors in the EB-2010-0002 proceeding.

The Board intends to proceed by way of written hearing unless a party satisfies the Board that there is good reason for holding an oral hearing. Any party objecting to the Board holding a written hearing in this proceeding must provide written reasons why an oral hearing is necessary. Any submissions objecting to a written hearing must be

received by the Board and copied to the applicant within **10 days** of the issuance of this notice.

Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. If Hydro One wishes to file any additional material in support of its requests, it shall file such information on or before Thursday, September 8, 2011. Hydro One must include in that filing, in addition to any other information deemed by Hydro One to be of assistance, the following:
 - the decision of the OSC granting Hydro One permission to use US GAAP in its financial statements filed with the OSC;
 - Hydro One's letter to the Board dated May 31, 2011 regarding electricity transmission revenue requirements and US GAAP considerations; and
 - Hydro One's letter to the Board dated July 15, 2011 regarding the Distribution Business and utilization of US GAAP.
2. Intervenors or Board staff wishing information and material from Hydro One that is in addition to the evidence filed with the Board and that is relevant to the proceeding, shall request it by written interrogatories filed with the Board and delivered to Hydro One on or before Thursday, September 22, 2011.
3. Hydro One shall file with the Board complete responses to the interrogatories and deliver them to all intervenors no later than Monday, October 3, 2011.
4. Written submissions by intervenors or Board staff must be filed with the Board and copied to all other parties, by Monday, October 17, 2011.
5. If Hydro One wishes to respond to the submissions, its written response must be filed with the Board and delivered to all other parties by Monday, October 31, 2011.

All filings to the Board must quote file number **EB-2011-0268**, be made through the Board's web portal at, www.errr.ontarioenergyboard.ca and consist of two paper copies

and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available parties may email their document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, August 25, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary